

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DR. RENA' E. STARKS,

2:11-CV-933 JCM (LRL)

Plaintiff,

V.

STATE OF NEVADA ATTORNEY
GENERAL, et al.,

Defendants.

ORDER

Presently before the court is plaintiff Rena Starks' objection (doc. #19) to Magistrate Judge Leavitt's report and recommendation (doc. #29), recommending that plaintiff's complaint be dismissed with prejudice as irrational and frivolous.

Also before the court is defendants Bank of NY/BOA/Federal Reserve, Bauer, Bergstrom, Miles, and Krista Nielson's motion to dismiss. (Doc. #35). The plaintiff has responded twice (docs. #37, 38), and the defendants have replied (doc. #42).

I. Report and Recommendation

Under Local Rule IB 1-4 and 28 U.S.C. 636(b)(1), a magistrate judge shall file findings and recommendations for disposition by the district judge. The district judge “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made . . . [and] may accept, reject, or modify, in whole or in part, the findings or recommendations.” 28 U.S.C. 636(b)(1).

Here, Magistrate Judge Leavitt found the complaint to be irrational and frivolous. Judge

1 Leavitt has quoted from the complaint extensively to bolster this opinion, and this court agrees.
 2 However, in plaintiff's one-page objection to the recommendation, she has attached three different
 3 versions of the complaint. (*See* docs. #33-3, 33-4, 33-5). In response to this request, the defendants
 4 have filed a motion to dismiss (doc. #35). Although the plaintiff has not formally requested leave
 5 to amend the complaint, the court, in an abundance of caution, nonetheless reviews the motion to
 6 dismiss on the merits.

7 **II. Motion to Dismiss**

8 "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted
 9 as true, to 'state a claim for relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 129 S. Ct. 1937,
 10 1949 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "Where a
 11 complaint pleads facts that are 'merely consistent' with a defendant's liability, it 'stops short of the
 12 line between possibility and plausibility of entitlement to relief.'" *Id.* (citing *Bell Atlantic*, 550 U.S.
 13 at 557). However, where there are well pled factual allegations, the court should assume their
 14 veracity and determine if they give rise to relief. *Id.* at 1950.

15 The court agrees with the defendants in concluding that the amended complaints filed in
 16 response to the report and recommendation should be dismissed for failure to state a claim upon
 17 which relief may be granted. Plaintiff has failed provide any analysis as to why the defendants are
 18 even named as parties and also fails to provide any basis for reversing the writ of restitution granted
 19 by the Las Vegas Justice Court. The complaint is indeed "borderline unintelligible" and vague to the
 20 point that it fails to put the defendants on notice of the claims against them.

21 Accordingly,

22 IT IS ORDERED, ADJUDGED, AND DECREED that the report and recommendation (doc.
 23 #29) is adopted in its entirety;

24 IT IS FURTHER ORDERED that defendants' motion to dismiss as to the purported amended
 25 complaints (doc. #35) be, and the same hereby is, GRANTED;

26 IT IS FURTHER ORDERED that the case of *Starks v. Cortez-Masto et al.*
 27 (2:11-cv-00933-JCM -LRL) be, and the same hereby is, DISMISSED with prejudice;

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1 IT IS FURTHER ORDERED that all pending motions in this case are hereby DENIED as
2 moot.

3 DATED August 1, 2011.

4
5 *James C. Mahan*
6 **UNITED STATES DISTRICT JUDGE**
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